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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Internally displaced persons

Report of the Representative of the Secretary-General, Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 1993/95

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Introduction

1. The appointment of the Representative of the Secretary-General on internally displaced persons in July 1992 and the extension of his mandate by the Commission on Human Rights at its forty-ninth session were significant steps in addressing the human rights dimension of the problem of internal displacement. The Representative's preliminary report to the forty-eighth session of the General Assembly (A/48/579) briefly covered the activities in which the Representative has been engaged since his appointment and those he plans to carry out during the next phase of his mandate. The present report updates the information included therein and outlines in some detail his programme of activities and the progress of its implementation.

2. As will be recalled, the Representative presented a comprehensive study (E/CN.4/1993/35) to the Commission on Human Rights at its forty-ninth session, as requested by its resolution 1992/73 of 5 March 1992, in which he set out the elements of the debate on the issue of internally displaced persons. Subsequently, the Commission adopted, without a vote, resolution 1993/95 of 11 March 1993, in which it requested the Secretary-General to extend the mandate of his Representative for a period of two years. The Commission requested the Representative to continue his work, including dialogue with Governments, aimed at a better understanding of the general problems faced by internally displaced persons and their possible long-term solutions, with a view to identifying, where required, ways and means of improving protection for and assistance to internally displaced persons. It also requested the Representative to submit annual reports on his activities to the Commission on Human Rights and to the General Assembly.

3. In the same resolution, the Commission encouraged the Representative to cooperate and coordinate with the Department of Humanitarian Affairs of the Secretariat, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross and called upon these bodies and intergovernmental and non-governmental organizations to continue to cooperate with the Representative and facilitate his tasks. The Commission also called upon all Governments to continue to facilitate the tasks and activities of the Representative, including, where appropriate, through extending invitations for country visits.

4. In its decision 1993/285 of 28 July 1993, the Economic and Social Council approved the request contained in resolution 1993/95, which authorized the Representative to begin discharging his mandate. Two months later, the Representative submitted his report to the General Assembly (A/48/579), following which the Assembly adopted, without a vote, resolution 48/135 of 20 December 1993. The General Assembly, in its resolution, encouraged the Representative, through dialogue with Governments, to continue his review of the needs for international protection and assistance of the internally displaced, including his compilation and analysis of existing rules and his suggestions and recommendations with regard to the institutional aspects of providing for these needs. It also called upon all Governments and concerned United Nations agencies and organizations to continue to facilitate his activities and support him in the implementation of his programme.

5. It should be mentioned at the outset that the resources available to the Representative, both human and material, are minimal in comparison with the monumental challenge presented by the mandate. Unfortunately, the Centre for Human Rights has so far not been in the financial position to make available more than limited short-term assistance. The Government of Norway has also given financial support to the mandate. While this generosity is most appreciated, it goes without saying that much more by way of human and material resources is required to fulfil the objectives of the mandate to a satisfactory degree.

6. Given the constraints under which the Representative of the Secretary-General has had to operate, his activities have so far focused on continuing to raise the level of consciousness about the crisis of internal displacement, sharpen understanding of the issues involved, maintain close consultation with the specialized circles within the United Nations system and the international community, pursue invitations from Governments for field visits to affected countries to see the conditions on the ground and to enter into dialogue on behalf of the internally displaced, and explore more effective ways of addressing the crisis beyond his mandate. These operational principles constitute the framework for this report, which is essentially interim in nature.

I. OVERVIEW OF THE CRISIS

7. The Commission on Human Rights has offered urgently needed leadership to the international community by establishing the mechanism to study, monitor and help address the problem of internal displacement. The crisis is, however, monumental, both in scope and intensity, and goes beyond the traditional human rights concerns, although protection remains the most crucial issue involved. Despite the magnitude of the crisis, the international community is both legally and organizationally ill prepared for an effective response to this global humanitarian and human rights tragedy. There is, therefore, an urgent quest for the development of ways and means to provide international protection for and assistance to the internally displaced and all those in similar circumstances of need.

8. In order to underscore the dimensions involved and the urgency of the quest for a global strategy, several points need to be highlighted about the crisis of internal displacement, its connection with domestic conflicts and the need for international action.

9. The first point that needs to be emphasized is the magnitude and scope of the problem. It is now generally recognized that the global population of internally displaced persons is in the range of 25 million people, compared with a refugee population of around 18 million worldwide. The statistics, tragically, continue to escalate with developments around the world. Nor is the crisis confined to certain areas of the world; it is truly global, affecting virtually all regions.

10. The second point to be emphasized is that while there are many causes of internal displacement, the most common and particularly formidable are internal conflicts, communal violence, forced relocation and other gross violations of human rights. The conditions vary significantly from country

to country, making the inquiry into the root causes a complicated task. Nevertheless, it has been observed that internal wars, especially those pertaining to racial, ethnic and religious conflicts, tend to reflect a crisis of national identity which generates cleavages between the controlling authority, be it the Government or opposing forces, and the affected civilian population. As a result, this population often falls into a vacuum wherein responsibility normally associated with State sovereignty is absent.

11. The third factor which needs to be highlighted is that given the magnitude of the human suffering involved in the crisis of national identity, the international community is often called upon to step in and meet the humanitarian challenges posed by the absence of national responsibility. The challenge is not only one of providing material assistance to the needy, but also of ensuring their physical protection and respect for their fundamental human rights.

12. The fourth factor to be underscored is that whatever can be done to alleviate the human suffering involved, the problems of internal displacement can only be solved by addressing the root causes, which are often embedded in civil wars. Only peace can restore the confidence of the displaced and encourage them to return to their homes and resume normal life. Conversely, as long as war prevails, not only will deprivation persist, but respect for human rights and fundamental freedoms will remain, almost by definition, elusive.

II. OPERATIONAL ELEMENTS OF THE MANDATE

13. The main operational elements of the mandate as contained in the resolutions of the Commission on Human Rights and the General Assembly comprise on-site visits to affected countries, dialogue with Governments, an appraisal of the existing legal standards and the degree to which they provide adequate protection, and an assessment of the institutional arrangements of the international community in general and the United Nations system in particular to determine the degree to which they cater for the needs of the internally displaced.

A. Country profiles

14. The Commission on Human Rights and the General Assembly have appropriately emphasized the significance of country visits as they provide insight into the situation on the ground where the problems of internal displacement are manifest. The goal of the Representative is to compile country profiles based on field visits and other sources of information otherwise available. It is hoped that such country profiles will provide a pool of information on the various dimensions of internal displacement: how the problem is manifested in individual countries, what remedies are provided by the Governments and the international community, and what gaps exist that need to be filled.

15. There are two discernible aspects to country studies: one is to acquire insights from them that may be useful in deepening understanding of the generic problems of internal displacement as a global crisis; the other is

focused more on specific situations and what needs to be done by the Governments concerned and the international community to address the problems involved.

16. While the visits undertaken by the Representative to several countries during the first phase of the mandate aimed at gaining a cursory impression of the situation on the ground and opening a general discussion of the issues with the authorities, the visits envisaged for the second phase are intended to provide a more in-depth understanding of the problems and the needed remedies. They therefore require more time for preparation, travel and dialogue.

17. The process of selecting the countries to be visited will take into account not only the magnitude of the problem, but also the geographical variation and the diversity of the causes of displacement. Field visits will aim at initiating a dialogue first and foremost with the relevant government authorities on the generic problems of internal displacement and their possible long-term solutions. It is also envisaged that field observations and discussions will lead to a more accurate and pragmatic definition of the term "internally displaced persons", as several delegations urged during the discussion of the item at the last session of the Commission. The emphasis will be on the word "displaced" and the needs emanating from it so as to be flexible enough to include returnees, potential refugees and other vulnerable groups, as well as the correlative causes of displacement. 1/

18. Beyond the generic issues of internal displacement as a worldwide phenomenon, dialogue with the Governments will focus on the specific dimensions of the problems in the specific context of the country concerned, their possible solutions and the initiatives undertaken by regional bodies to address the protection needs of the internally displaced. The mere fact of the visit attracts the attention not only of the Government but also of the other members of the society and generates a discourse that could prompt internal initiatives to deal with the problems. Both the generic and the specific dimensions of the country profiles can provide information that could eventually be more widely shared and used in formulating standards and strategies of international validity and application.

B. Legal standards

19. Another task to be accomplished under the mandate is an assessment of the present situation with respect to existing international law to determine the degree to which it provides an adequate basis for the protection of the internally displaced. Controversy still prevails among lawyers as to the scope and applicability of existing legal doctrine. There are those who believe that the existing standards provide adequate protection and that the main challenge is one of implementation. The proponents of this view believe that to hold otherwise would be to put into question the legal foundation for accountability. In contrast, there are those who maintain that legal reform is necessary to ensure complete and adequate coverage. While both points of view emanate from the need to strengthen protection, the second implies that setting new standards would not only fill any existing gaps but would also focus international attention and thereby raise the level of public awareness of the problem and the need for solutions. Although the basic legal issues

involved were covered in the comprehensive study of the Representative of the Secretary-General, it may be useful to outline the main principles in the present report.

20. The principal sources of the existing standards for protection, as well as the foundations for articulation of further protections, are found in international human rights law, specifically the Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant on Economic, Social and Cultural Rights; humanitarian law, which comprises the four Geneva Conventions of 1949 and the two Additional Protocols of 1977; and refugee law, embodied in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. The wide array of rights enshrined in the corpus of human rights law is applicable to situations common to the displaced. These rights cover the minimum standards of human existence and dignity: physical protection, shelter, food, clothing, basic health, work, and the integrity of the person and the family as the most fundamental social unit.

21. The responsibility for meeting these needs for protection and assistance rests first and foremost with national Governments. However, in situations of displacement, the State may be required to take additional measures in order to safeguard these rights, which it might be unable or unwilling to do. Furthermore, human rights are subject to derogation during periods of public emergency, which often coincide with the times of greatest need for protecting the displaced. Finally, human rights law does not directly address some of the most critical situations affecting the displaced, such as forcible displacement or return to unsafe areas and access to humanitarian assistance.

22. A more elaborated right to humanitarian access and humanitarian assistance, including the right to food, has, therefore, been advocated. 2/ Since basic economic, social and cultural rights form part of international customary law, Governments unable to protect them adequately are obliged to avail themselves of international cooperation. It could be argued further that individuals are also entitled to receive international assistance when such rights are at risk, even if the Government concerned is unwilling to request such assistance.

23. It is also generally acknowledged that internally displaced persons face more risks with regard to their physical safety than the rest of the population. Standards to address these special protection needs may be appropriate. Special guidelines for the protection problems that women and children face are also necessary. Such guidelines have already been developed within the United Nations system in order to deal with the protection needs of refugees and important principles could be derived from them and further elaborated. 3/

24. Humanitarian law, which codifies the principle that those not directly participating in the hostilities shall be treated humanely, contains provisions which are of great value to the displaced. Particularly relevant is article 3, common to all four Geneva Conventions, which, in the case of armed conflicts not of an international character, categorically prohibits violence to life and/or person, the taking of hostages, and outrages upon the personal dignity of persons. Equally important is article 17 of Protocol II

Additional to the Geneva Conventions (1977), which deals with displacement of civilian populations in internal conflicts and sets out restrictions on such movements. It provides guarantees to the civilian populations if these movements, for imperative reasons, have to take place and prohibits their being compelled to leave their territories for reasons related to the conflict. While useful, this provision applies only to persons displaced because of armed conflict, and only to States parties to Additional Protocol II.

25. Efforts to convince Governments to ratify the Geneva Conventions and the Additional Protocols are, consequently, essential. These legal instruments include important safeguards with regard to forcible displacements of civilian populations in the course of armed conflicts. There is an increasing awareness, however, that the prohibition of displacement needs to be formulated more generally. The Sub-Commission on Prevention of Discrimination and Protection of Minorities has begun to study the subject of population transfers (E/CN.4/Sub.2/1993/17) while scholars and experts have also elaborated minimum humanitarian standards that include such a right (see E/CN.4/Sub.2/1991/55).

26. Despite the fact that internally displaced persons have much in common with refugees, refugee law applies by definition only to persons who have crossed an international border. While some have argued that this is an arbitrary distinction, it is of enormous consequence, as a displaced person's presence in a country other than his or her own implicates a well-established protective regime, the core of which is the concept of non-refoulement (the right of non-return to a territory where the refugee's life or freedom would be threatened because of race, religion, nationality, membership of a particular social group or political opinion). For internally displaced persons, one of the most important rights provided for in refugee and human rights law is the right to seek asylum. It is important that this right not be undermined while efforts are being made to strengthen the standards for protection of internally displaced persons.

27. Given the similarities in the situations of internally displaced persons and refugees, many important principles can be drawn by analogy from refugee law for the protection of internally displaced persons. For instance, the articulation of a right not to be forcibly returned to areas where the life or freedom of the displaced person could be threatened could be vital in some cases. During his visit to Sri Lanka in November 1993, for example, the Representative noted not only the existence of such a problem, but also the Government's effort to enshrine this principle in a circular entitled Resettlement Guidelines. Other similar rights could include the right to seek residence in a safe place, the right to be provided with adequate documentation, the right not to be identified as a displaced person if that would result in discrimination, the freedom of movement especially in and out of the camp or other shelter for the displaced, the right to benefit from measures towards family reunification and the right to voluntary return to the original area of residence.

28. Without prejudicing the issue of whether or not new normative standards are needed, it is generally recognized that even though the existing law appears to be adequate for the needs of internal displacement, a consolidation

and evaluation of existing norms would be of value and would provide the basis for filling whatever gaps may exist. Building on the knowledge acquired from the practical experience on the ground, as well as the expertise of scholars with experience in this area of the law, the proposed project would aim at the development of ideas for normative standards based on principles of existing international instruments. The goal would be to develop a doctrine of protection specifically tailored to the needs of the internally displaced. This requires first a compilation/commentary of the existing norms and a further elaboration of the relevant standards (in the form, for instance, of a code of conduct) and, eventually, a declaration or other authoritative document.

C. Institutional mechanisms

29. The third task of the mandate requires reviewing and evaluating the existing international institutions, their mandates and operations, and the extent to which they provide coverage for the needs of the internally displaced. Although this area too was covered in the comprehensive study, it may be useful for the purpose of this report to review the elements of international institutional arrangements that are pertinent to the internally displaced. Prior to the appointment of the Representative of the Secretary-General on internally displaced persons, there was no provision for the collection of information by the United Nations about the protection problems of the internally displaced or any public international reporting or monitoring of their protection needs. Although the appointment of the Representative of the Secretary-General is a significant step in the right direction, it can hardly be expected to provide adequate protection for internally displaced persons. There is still a pressing need for an agency or department within the United Nations system that would be operationally and comprehensively responsible for the assistance and protection of internally displaced persons.

30. Notwithstanding the shortcomings of the present system, the impression must not be given that no programme of protection and assistance relevant to the internally displaced currently exists in the international system. Within the United Nations system, the role of UNHCR is the most pertinent to the needs of the internally displaced. Despite the fact that this population generally falls outside the mandate of the agency, UNHCR has often provided protection and assistance to internally displaced persons in specific circumstances.

31. UNHCR has further developed the criteria for its involvement in such cases during the last year. Its work with this group has traditionally been in the context of voluntary repatriation programmes, where displaced persons are intermingled with returning refugees and the local population. In situations where both categories of person live in the same area, UNHCR's assistance to the displaced provides a link with the organization's mandated activities. Another situation of concern to UNHCR arises where the same causes have produced both internal displacement and refugee flows, or where internal displacements risk turning into refugee movements. In such cases, the emphasis is on prevention. UNHCR may also become involved through special operations, undertaken at the request of the Secretary-General or the General Assembly, on a good offices basis. Such is the case in Sri Lanka,

with respect to UNHCR's programme of Open Relief Centres, which the Representative had an opportunity to discuss with UNHCR field staff in that country. Situations also occur whereby UNHCR participates in international or regional arrangements for the provision of development and humanitarian assistance to refugees and internally displaced persons.

32. In all cases, UNHCR's activities on behalf of internally displaced persons must be based on the consent of the concerned country or other relevant entities and should receive adequate financial support. UNHCR emphasizes that its mandate and expertise are in the area of protection and solutions and that it should consequently be expected to act in pursuit of these basic objectives when it is requested or allowed to assist the internally displaced.

33. Another organization whose mandate and activities are prominent to the internally displaced is the Department of Humanitarian Affairs (DHA). As a coordinating body, DHA has the task of facilitating the response of the operational organizations of the United Nations system to humanitarian emergencies through ensuring the most effective deployment of its human, financial and material resources. In this context, one of the items that the Inter-Agency Standing Committee of DHA is supposed to harmonize is humanitarian assistance to the internally displaced. On 5 July 1993 the Inter-Agency Standing Committee endorsed a proposal for a study which is to be conducted by its task force on internally displaced persons and presented to the Inter-Agency Standing Committee at a later stage. The main emphasis of the study is to be on operational mechanisms on the country level to ensure coordination of humanitarian assistance. However, protection as such, outside the context of de facto protection through humanitarian assistance and presence, falls outside the mandate of the Department of Humanitarian Affairs. In terms of field presence, it should be recalled that by virtue of General Assembly resolution 44/136, the United Nations Development Programme (UNDP) resident representatives, in their capacity as United Nations resident coordinators for humanitarian relief, have been assigned the function of coordinating assistance for internally displaced persons.

34. With respect to possible institutional reforms, the framework for protection within the context of the United Nations institutions and specialized agencies has been clearly articulated in the Vienna Declaration and Programme of Action (A/CONF.157/23), which was adopted by the World Conference on Human Rights. Paragraph 23 of part I calls for a "comprehensive approach" by the international community, which should encompass all three elements of prevention, protection and solutions.

35. In the case of internally displaced persons, as in the case of refugees, the content of protection has to be defined with reference to their specific needs. Unlike the case of refugees, however, with internal displacement there is no crossing of borders and, therefore, no clear signal that a need for international protection may arise. Protection can take various forms. As the Representative was told in Sri Lanka, providing humanitarian assistance, which requires presence in the country, implies de facto protection. Protection can also be enhanced through the promotion of human rights education and assistance to legal aid and human rights non-governmental

organizations, encouragement of the establishment of minimum standards of treatment of the internally displaced, the stationing of monitors in the field and dissemination of relevant information.

36. Several proposals have been suggested to promote international protection for the internally displaced. One such proposal relates to the development of an effective early-warning system to alert the international community to conditions that might cause displacements and encourage action to remedy those conditions. It has been observed that while the United Nations has made some progress with the establishment by the Administrative Committee on Coordination (ACC) of the Ad Hoc Working Group on Early Warning regarding New Flows of Refugees and Displaced Persons, much more needs to be done. Any early-warning or other collection of information system requires stronger cooperation among the different United Nations agencies and departments; it also requires the establishment of channels of communication among human rights groups and humanitarian agencies, as appropriate.

37. Within the work of the Commission, in its resolution 1993/70, the Commission reiterated its recommendation that special rapporteurs, special representatives and working groups studying situations of violations of human rights should pay attention to problems resulting in mass exoduses of populations and report to the Commission thereon. Where human rights monitors are deployed in the field, they should also report on the situation of internally displaced persons in the relevant country.

38. On the regional level, it has been suggested that cooperation with the regional bodies needs to be established. Obvious partners in efforts to address the problem of internal displacement include, for instance, the Organization of American States, the Organization of African Unity and the Conference on Security and Cooperation in Europe, as well as their respective humanitarian, political, and human rights institutions and departments. The deployment of human rights monitors on the regional level could also be envisaged, both for protecting the internally displaced and for more general human rights purposes.

39. On the country level, sharing of information, cooperation and coordination among United Nations agencies and non-governmental organizations is highly desirable. During his mission to Sri Lanka, the Representative was in a position to appreciate the beneficial effects of the regular meetings of the United Nations agencies and NGO representatives. The United Nations agencies could increase their inter-agency training programmes in the field, and in doing so, pay particular attention to the protection needs of the displaced populations, wherever they exist. The exchange of staff among the agencies, for instance, protection officers from UNHCR seconded to the United Nations resident coordinators, might be another option for enhancing protection for the internally displaced.

III. IMPLEMENTATION OF THE MANDATE

40. Three themes need to be highlighted with respect to the implementation of the mandate: the methodological or operational orientation of the mandate, the range of activities which have so far been undertaken and the future programme of work.

A. Methodology

41. In carrying out his mandate, the Representative of the Secretary-General has been guided by a number of principles and assumptions. The most important one is that his efforts should enhance the prospects for providing effective protection and assistance for the internally displaced; since they fall within the domestic jurisdiction, this can best be done through dialogue and cooperation with the Government. Cooperation with Governments is, however, predicated on the assumption that sovereignty carries with it responsibility for ensuring protection and assistance for the citizens.

42. Where there is a failure to discharge that responsibility and masses of people fall victim in consequence, it should be established whether there are objective reasons which may have to do with lack of capacity or resources. In such cases, Governments can be expected to invite, or at least welcome international cooperation in providing the required protection and assistance. However, where the need is apparent and masses of the population are affected, and the Government is incapable or unwilling to provide protection and assistance, whether by itself or in cooperation with foreign donors, then some form of international action becomes an imperative.

43. It is important to remember that there is in fact considerable variation in the performance of Governments or other controlling authorities in providing their citizens with adequate protection and assistance. During his recent mission to Sri Lanka, for instance, the Representative was impressed by the commitment of the Government to deliver food and medical services to areas controlled by the rebel forces and the tacit cooperation of all concerned with the provision of basic needs to the needy population.

44. Where Governments endeavour to discharge their obligations, the principles of an appropriate strategy should aim at facilitating the cooperation of the Governments with the international community in providing protection and assistance to the internally displaced, within the framework of national sovereignty. In the exceptional cases in which there is a glaring failure on the part of a Government to live up to the responsibilities of national sovereignty because of lack of capacity or political will, it becomes incumbent on the international community to assert its concern and responsibility in order to fill the moral void and provide the suffering masses with the needed protection and assistance.

B. Relevant activities

45. Since the extension of his mandate by the Commission on Human Rights, the activities of the Representative of the Secretary-General have focused on maintaining contacts and consultations with a wide array of organizations, groups and individuals whose areas of expertise or operational activities are pertinent to the internally displaced. This period has been mostly one of reflecting on the issues, exchanging views and planning for an effective response to the challenges of the mandate.

46. Shortly after the extension of the mandate, the Representative travelled to Geneva where he had consultations with the agencies mentioned in the Commission's resolution 1993/95 (i.e. the Department of Humanitarian Affairs

of the Secretariat, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and the International Organization for Migration), with non-governmental organizations, and with the Special Rapporteur on population transfers of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

47. Apart from the consultations which he has held in Geneva with the specialized agencies in accordance with paragraphs 5 and 6 of resolution 1993/95, the Representative has been in continuous communication with the United Nations High Commissioner for Refugees, in an attempt to draw from her agency's experience with internally displaced persons and its expertise with issues relating to refugees and displacement. He has also been in contact with the Department of Humanitarian Affairs, in order to coordinate his activities with and contribute to the work of the DHA-led task force of the working group on internally displaced persons, the members of which represent all the agencies providing assistance to this group. The Representative has been invited by DHA to attend the meetings of the task force on internally displaced persons. None has taken place since this invitation was extended. However, DHA has promised close cooperation with the mandate in the monitoring, protection, assistance, prevention and early-warning functions with other partners, including the Centre for Human Rights, UNHCR and other bodies concerned with the problems of internal displacement. In particular, DHA has pledged to apply its experience and capacity to two main aspects of the evolving mandate for the internally displaced: the management of humanitarian assistance through the instrument of the Inter-Agency Standing Committee, and direct work in early warning and prevention of new mass flows of displaced persons.

48. In the context of his work aimed at a better understanding of the general problems faced by internally displaced persons, as requested in paragraph 4 of the above-mentioned resolution, the Representative has contacted a number of academic institutions and non-governmental organizations in order to enlist their contributions in the legal and institutional aspects mentioned above in the programme of activities. In November 1993 he co-chaired a meeting in Washington, D.C. organized by the Refugee Policy Group, with the participation of various other non-governmental organizations active in the area of refugee issues and human rights, many of which had assisted the Representative of the Secretary-General during the first phase of his mandate.

49. The Representative has also been in contact with a joint NGO-UNHCR initiative (known as Partners in Action or PARINAC), and hopes to participate in some of its next meetings and, by doing so, to promote contacts with NGO networks in the various regions of the world. He was also represented in an observer capacity at the annual meeting of the International NGO Working Group on Refugee Women.

50. As requested in paragraph 5 of Commission resolution 1993/95, the Representative has been in contact with a number of Governments, in an effort not only to learn the conditions prevailing on the ground, but also to ensure and demonstrate cooperation in providing protection and assistance to the internally displaced. Due to a number of factors, including the limitation of the human resources at his disposal and the constraints of mutually convenient

arrangements with Governments, the Representative of the Secretary-General has so far been able to visit only one country (Sri Lanka) since the extension of his mandate. The findings of his mission, which took place in November 1993, are described in the country profile contained in the Addendum. The Representative intends to visit four or five countries in Latin America, Africa and Asia before the fifty-first session of the Commission. He has been invited by the Governments of Burundi and Colombia to visit these countries and plans to do so in April and June respectively. He has also initiated consultations with the Government of Rwanda with a view to undertaking a similar in situ visit in the next three months.

51. One of the main concerns of the Representative of the Secretary-General is to establish and maintain a system of follow-up whereby issues discussed and agreed upon in the dialogues with Governments could be monitored. It is clearly counterproductive to have the Representative visit camps or centres for the displaced, hear moving accounts of the needs, intercede with Governments, have reforms undertaken or requests made to the international community and then disappear, not to be heard from by the Governments concerned, far less the affected population. By way of examples, the Representative has tried to follow up with DHA, both in New York and in Geneva, on certain understandings which were reached with the Government of the Sudan concerning possible areas of cooperation; and although this has been constrained by a combination of factors, he still hopes that progress will be possible in this area. The visit to Sri Lanka also resulted in understandings with the authorities which will require follow-up. The issue of follow-up and the means for ensuring it require attention and appropriate action.

52. Apart from the activities outlined above, the Representative of the Secretary-General has maintained close contact with the Secretary-General personally, both to report and to consult on the progress of his work. These contacts have been particularly fruitful with respect to the plans for the future.

C. Future plans

53. It is quite obvious that what is required to ensure adequate protection for internally displaced persons goes beyond what can be achieved through the mandate of the Representative with its current level of staff and material resources. A mandate that would adequately meet the challenges of the crisis of internal displacement would have to be considerably enhanced, both in its objectives and the means for pursuing them. Even with the mandate as now defined, if the Representative is to discharge his obligations in a meaningful and productive manner, support for the mandate will have to be provided at a much more substantial level and on a more stable basis than is currently the case. The collaboration not only of the staff of the Centre for Human Rights, but also of scholars in concerned academic and research institutions and of others who can help provide regional perspectives on the problem and the required approaches would be essential. To be realistic in addressing the crisis of internal displacement, however, it is important to realize that the challenge goes beyond supporting and sustaining the present mandate.

54. These issues were considered in the Representative's most recent consultations with the Secretary-General and the Under-Secretary-General for Humanitarian Affairs, and it was agreed that to remedy the situation a major review should be undertaken to develop the needed comprehensive approach for an effective international protection for internally displaced persons. The review envisaged clearly falls within the framework of the mandate as presently defined by the Commission, and would enormously enhance the conceptual framework and the capacity of the mandate to provide more effective leadership and guidance in this vitally important area.

55. The review will develop along the lines of the operational elements of the mandate as described above and will include: monitoring developments around the world and compiling information on the crisis of displacement as a global phenomenon; identifying and encouraging the growth of national, regional and international capacities to enhance protection for the internally displaced; conducting in-depth studies of several country cases selected from Africa, Asia, Europe and the Americas. It is envisaged that the review would be undertaken by one or more independent research institutions which would act as coordinators, working with the Representative. In carrying out this comprehensive research agenda, the Representative will continue to work closely with DHA, UNHCR, UNDP and other organizations and agencies concerned with the internally displaced. Conferences and discussion groups would be organized in different parts of the world to foster an exchange of views across national, regional and cultural barriers.

56. Because the task is both monumental and interdisciplinary and will require the cooperation of a broad range of independent experts, the coordinators will work together with carefully selected institutions and individuals from all regions of the world to enhance the complementarity of expertise and the comprehensiveness of the coverage.

57. The results of this review would inform the coordinating expert body that would compile and analyse existing international standards, mandates and operations to assess the effectiveness and shortcomings of the international system and what remedies are needed. Finally, all those involved would cooperate in developing normative principles and operational strategies for international action.

58. The Representative of the Secretary-General will report to the Commission on Human Rights on the progress of the study, activities related to the study and the final results. Some of the recommendations of the study may require action by the Secretary-General while others may involve the Commission on Human Rights and other United Nations bodies.

59. It should perhaps be emphasized that what is envisaged is not merely a theoretical study, devoid of practical application. Quite the contrary: the operational functions of the mandate will proceed normally, making use of the research results as they become available. Indeed, through the field survey and the collection of information about the various organizations involved at the country level, the envisaged research is expected to interact with the operational activities; the two would therefore reinforce each other. Thus, research and operations will proceed on both parallel and intersecting tracks that would be mutually beneficial.

60. It is obvious that what is envisaged would require considerable human and material resources to be carried out effectively and fruitfully. If the necessary resources can be made available and the project is implemented productively, there is every reason to expect that it would make a significant contribution to the quest for an effective doctrine of protection for the internally displaced.

IV. CONCLUSIONS

61. It is important to note that the mandate of the Representative calls for a complex, comprehensive and challenging programme of activities, which will require commensurate human and financial resources. From a human resource point of view, only one staff member at the Centre for Human Rights, appointed and reappointed on short-term contracts, has been working on the mandate. While her performance has been outstanding, the needs of the mandate by far surpass what she can humanly do to meet the demands of the mandate. In this connection, it should be acknowledged that the Government of Norway has generously offered to contribute the services of an expert, although the formalities of recruitment have delayed the appointment. In order for the Representative to continue implementing his programme of activities in a meaningful and productive manner, support for his mandate will have to be provided at a much more substantial level and on a more stable basis.

62. In his report to the General Assembly, the Representative of the Secretary-General made the point that it would be tragically ironic if the international community were to become complacent in addressing the crisis of internal displacement because of the existence of his mandate. Despite the Commission's concern, as demonstrated in the establishment of the mandate, and although the need for effective action is indisputable, the normative principles and the enforcement mechanisms for international action are clearly inadequate and ineffective.

63. If the international community is to rise to the challenge, then the mandate of the Representative of the Secretary-General must be seen as a catalyst and a leverage for the adoption of more effective measures. It is in this connection that the envisaged programme of activities can be expected to facilitate the development of a comprehensive strategy of international protection for internally displaced persons. It should, however, not be seen as a new initiative, for all it aims to do is to provide a more credible means of pursuing the objective of the mandate, in particular by facilitating the search for ways to address the crisis of internal displacement in a comprehensive, effective and durable manner.

Notes

1/ Norwegian Refugee Council, The Protection of Internally Displaced Persons by NRC, January 1994.

2/ Refugee Policy Group, Strengthening International Protection for Internally Displaced Persons, December 1993.

3/ See, e.g. UNHCR's Guidelines on the Protection of Refugee Women, July 1991 and the UNDP/UNDRO Training Module on Displaced Persons in Civil Conflict, 1991.